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In re Application of	:	
WARD et al.	:	
U.S. Application No.: 10/031,862	:	DECISION ON PETITION
PCT No.: PCT/US01/07582	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 09 March 2001	:	
Priority Date: 09 March 2000	:	
Attorney Docket No.: 19978-088796	:	
For: METHOD FOR CONTROLLING	:	
IGNITION OF AN INTERNAL	:	
COMBUSTION ENGINE	:	

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 22 April 2003. In a decision dated 22 January 2003, the "Petition under 37 CFR 1.47(a)" filed 26 August 2002 was dismissed because: (1) applicant did not provide adequate proof that joint inventor, James D. Meaney, refused to execute the application or could not be reached after diligent effort and (2) applicant did not provide an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor.

BACKGROUND

On 09 March 2001, applicants filed international application no. PCT/US01/07582 which claimed a priority date of 09 March 2000. A Demand was not filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 20 months from the priority date, or at midnight on 09 November 2001.

On 09 November 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; and declaration of the inventors.

On 22 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b). The notification indicated that the declarations filed on 09 November 2001 were defective.

On 22 August 2002, applicants filed a Petition under 37 CFR 1.47(a) and the requisite fee. The petition was dismissed without prejudice in a Decision dated 22 January 2003.

On 22 April 2003, applicants filed the present renewed petition and a petition for a one-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and (3) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to James D. Meaney. The steps taken by David Simonelli are sufficient to show that the missing inventor refuses to execute the application.

As to Item (4), an oath or declaration by each 37 CFR 1.47(a) applicant on his own behalf and behalf of the non-signing joint inventor has not been provided. As stated in the previous Decision, the declaration executed by Lance Ward is defective pursuant to 37 CFR 1.497(a)(3) which requires that the declaration "identify each inventor and the residence and country of citizenship of each inventor." In this instance, the declaration executed by Lance Ward does not list James D. Meaney as an inventor. Section 201.03 of the Manual of Patent Examining Procedure states, in part,

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity . . . For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor . . .

Therefore, in order to satisfy this item (4), Lance Ward is required to file a newly executed declaration which complies with 37 CFR 1.497 and 37 CFR 1.63.

For the reasons stated above, it would not be appropriate to accept the application without the signature of James D. Meaney under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to:
Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box
1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the
attention of the Office of PCT Legal Administration.



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